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| 10/073,286      | 02/13/2002  | Francois Delaney     | 06749-001-US-02     | 3484             |

7590 11/19/2003

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| EXAMINER |
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BRAHAN, THOMAS J

|          |              |
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| ART UNIT | PAPER NUMBER |
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3652

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,286

Applicant(s)

DELANEY, FRANCOIS

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-48 is/are pending in the application.
- 4a) Of the above claim(s) 20-33 and 37-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-19, 34-36 and 43-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Applicant's substitute specification filed September 12, 2003 has not been entered as it introduces new matter into the specification. On page 5, lines 8 and 9, the proposed substitute specification states that the invention includes a carriage displacement unit for longitudinally displacing the carriage relative to the lateral arm. Lines 11-13 of the same page recite that the weight has sufficient mass to lift the object. Both of these are new matter. The original disclosure has the carriage as freely moving along the rail, see page 2, lines 15 and 16, and has the weight as canceling the weight of the object being lifted, see page 4, as to balance the loads as the operator maneuvers it. It does not state that the weight can lift the load. The claims have been amended as put forth in the paper filed September 12, 2003.
2. The proposed drawing correction filed on September 10, 2003 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v).
3. Claims 20-33 and 37-42 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and nonelected inventions. Election was made without traverse in Paper No. 17.
4. The structure of sealing means (6) does not appear to be in any of the drawing figures.
5. The following is a quotation of the first paragraph of 35 U.S.C. § 112:  

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claims 9-19, 34-36, and 43-48 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. These are new matter rejections.

- a. There is no disclosure of a displacement unit which causes displacement of the carriage. The specification states that "The carriage displacement unit includes a wheel (12) disposed on each side of the carriage (50). These generally coaxial wheels (12) are displaced on rolling surfaces (17), for example a pair of hard steel strips disposed inside the rail (38)", see the last three lines of page 7 through the top line of page 8, of the specification filed September 12, 2003. A corresponding description of the carriage has it freely moving along the rail, see page 2, lines 15 and 16 of the original specification.
  - b. There is no disclosure of the weight having a mass sufficient to raise the load as now recited at the end of claim 9. The original specification has the weight cancel the weight of the object being lifted, see page 4, as to balance the loads as the operator maneuvers it, but the specification does not state that the weight can lift the load.
7. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
8. Claims 9-19, 34-36, and 43-48 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to how applicant is considering the carriage as having means for displacing it along the rail, as recited in 15-17 of claim 9. The limitation recites that the displacement unit causes movement of the carriage along the rail. The specification states that the wheels permit it to move along the rail without any means for causing the movement.
9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

10. Claims 9-19, 34-36, and 43-48, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Maxfield et al in view of Thierion. Maxfield et al shows the basic claimed system of a crane for loading and unloading of material and machine parts, see page 1, lines 10-25. The crane comprising:

- a partially hollow post (3) having a generally vertical axis;

- a load lifting means (5) located within the partially hollow post;

- a lateral arm (16) rotatably connected to the post (3) for rotation about the vertical axis and including a proximal end located near the post (3) and a distal longitudinal end located away from the post (3);

- a cable (23) having one end attached to the load lifting means (5) and the other end attached to the distal end of the lateral arm (16); and

- an object attachment member (26/27) connecting to the cable for attaching an object thereto.

Maxfield et al varies from the claims by not having a "balanced lifter" as the means to lift the objects. However balanced lifters are commonly used for small factory cranes for loading and unloading objects by providing a lifting force to assist the worker as he maneuvers and handles the objects. Thierion shows the basic claimed balanced lifter with having a hollow post (9) housing a weight (20 and 23) which balances the load and a pneumatic cylinder for (27) for a weight displacement system for longitudinally and upwardly displacing the weight relative to the post. It would have been obvious to one of ordinary skill in the art to modify the crane of Maxfield et al by substituting a balanced lifting arrangement for the winch (5), as to do have the load automatically lifted as it is moved and maneuvered by the operator at the load, for quick accurate placement of the load, as taught by Thierion. The upper guy arrangement above the arm (16) of Maxfield et al is an elongated support with one end moveably connected to the post (indirectly) and the other end fixed to the distal end of the lateral arm, as recited in claims 10 and 11. The lateral arm of Maxfield et al can pivot about the post for 360 degrees or more, as recited in claims 12 and 44. The post (19) of Thierion is used as a compression chamber, as part of it, chamber 27, is a compression chamber, as recited in claim 14. The PSI for the pneumatic chamber, as recited in claims 15 and 17, would have been

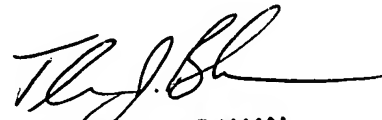
an obvious design consideration, within the limits of routine skill in the art at the time the invention was made, depending upon the intended loading. The valve openings (31 and the unlabeled opening at the top of chamber 24) are sealing members between the piston (23) and the post (9) each with an opening of predetermined area to let air escape therethrough, as recited in claims 18 and 19, alternatively, see the next paragraph. The carriage rides on rail surfaces, as recited in claim 35, and has a pair of coplanar pulleys, as recited in claims 36 and 48. The arm (16) is generally perpendicular to the post (3), as recited in claim 43. The connection between the proximal end of arm (16) to the post (3) includes rollers (12-14), as recited in claims 45 and 46. The carriage (29) rides on the rail with coaxial rollers (20), as recited in claim 47.

11. Claims 18 and 19, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Maxfield et al in view of Thierion, as applied above to claim 9, and further in view of Hageman or Uppgard et al. Maxfield et al, as modified by Thierion, shows the basic claimed balanced lifting a crane, but varies from claim 18 by not showing an opening passing through the piston. However there are various piston arrangements with openings for different functions. Hageman shows a cylinder actuator with a piston opening to act as a velocity fuse to stop rapid descent. Uppgard et al shows a cylinder actuator with a piston opening to act as a shock absorber. It would have been obvious to one of ordinary skill in the art to modify the crane of Maxfield et al by providing the pneumatic piston with a controlling opening to act as a velocity fuse to stop rapid descents, as taught by Hageman, or to act as a shock absorber, as taught by Uppgard et al.

12. Applicant's remarks in the amendment filed September 12, 2003 have been considered but are deemed moot in view of the above new rejections. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The new fax number for all patent applications is (703) 872-9306.



**THOMAS J. BRAHAN**  
**PRIMARY EXAMINER**